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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,968	06/30/2001	Michael J. Cleary	CEL-97	2589

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EXAMINER

JUNG, DAVID YIUK

ART UNIT	PAPER NUMBER
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2134

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/681,968

Applicant(s)

CLEARY ET AL.

Examiner

David Y. Jung

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-86 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39-86 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

CLAIMS PRESENTED

The latest amendment presented claims 39-86.

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection. Because not all claims were previously examined, this Office Action is non-final.

Applicant argued that the claimed invention's use of ESN and MIN is not for security. Nevertheless, ESN and MIN are used for tracking. Such tracking is part of security. For instance, the user would wish for a wireless device with the appropriate ESN/MIN number programmed for the corresponding telephone number and/or IP address. Thus, security would teach tracking. Hence, the previous rejections were correct for at least the claims 39-74.

CLAIM REJECTIONS

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

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Patentability shall not be negated by the manner in which the invention was made.

Claims 39-86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook et al. (cited by Applicant, US Patent 5,860,068, hereinafter also referred as "Cook") and Lewine (cited by Applicant, US Patent 5,784,565) and www.fcc.gov/cgb/consumerfacts/cellphonefraud.html ("FCC", which discusses the 1998 Act, hence dating the discussed subject material as being from the year 1998).

Regarding claim 39, Cook teaches "A system comprising: a server ... to a computer network; ... device inventory database ... to the server comprising ... device inventory database; and an advanced ordering server module ... to the server wherein the advanced ordering server module is capable of communicating with an ... customer workstation. (column 3, lines 30-46, i.e. launching to website -- which suggests server, database, etc., also e-mail -- which suggests such communication, etc.)."

These passages of Cook do not teach "operably connected" in the sense of the claim.

Lewine teaches "operably connected (column 2, lines 50-65, i.e. profile, password)" for the motivation of providing convenient access to the user (column 2, lines 50-65, i.e. "never has to enter it again").

Hence, it would have been obvious to those of ordinary skill in the art at the time of the claimed invention to combine Cook with Lewine for the motivation noted in the previous paragraphs so as to teach the claimed invention.

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Neither Lewine nor Cook are explicit about "MIN ... ESN ... wireless communication."

FCC teaches "MIN ... ESN ... wireless communication (the fourth paragraph, i.e. cell phone, ESN, MIN)" for the motivation of security (as noted in the fourth paragraph).

Hence, it would have been obvious to those of ordinary skill in the art at the time of the claimed invention to combine the teachings of Cook with that of Lewine and that of FCC for the motivation noted in the previous paragraphs so as to teach the claimed invention.

Regarding claim 40, such features (XML-RPC, etc.) are well known in the art for the purpose of having effective protocols of information transfer.

Regarding claims 41-58, such features of customer handling are well known in the art for the purpose of effective e-commerce.

Regarding claims 59, 60, such features using MIN and ESN are well known for the purpose of security.

Claims 61-86 are method analogs and computer program analogs of corresponding claims of claims 39-60. For the reasons noted in the rejections of claims 39-60, claims 61-86 are not patentable.

Conclusion

The art made of record and not relied upon is considered pertinent to applicant's disclosure. The art disclosed general background.

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Points of Contact

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 746-7239, (for formal communications intended for entry)

Or:

(703) 746-5606 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Jung whose telephone number is (571) 272-3836 or Greg Morse whose telephone number is (571) 272-3838.

David Jung

Patent Examiner

2005-06-25

A handwritten signature in black ink, appearing to read 'David Y. Jung', with a stylized, flowing script.

David Y. Jung
Primary Examiner